



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,374	10/12/2000	James W. Brinsfield	GEMS8081.041	8236
27061	7590	06/01/2006	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)			PORTER, RACHEL L	
14135 NORTH CEDARBURG ROAD				
MEQUON, WI 53097			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/689,374

Applicant(s)

BRINSFIELD ET AL.

Examiner

Rachel L. Porter

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 3/23/06. Claims 1-31 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7,9,12-14, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke et al (USPN 6,221,012) in view of Jacobsen et al (USPN 6,160,478).

[claim 1] Maschke teaches a wireless bi-directional portable patient monitor comprising:

- a communication interface having a local area network input to receive patient data from a wireless communications network within a medical care facility and an output transmit care parameters as needed to the wireless communications network (col. 3, lines 21-44; col. 5, lines 10-29))
- a processor connected to the communication interface to process the patient data and the care parameters; (col. 3, line 21-44)

- a display connected to the processor to display the processed patient data in human discernable form; and (Figure 1A (display 120-124; col. 4, lines 4-22));
- an input device connected to the processor to allow a change in the care parameters by a health care provider. (col. 6, lines 34-41; col. 8, lines 20-43—parameters may be entered/altered by healthcare workers; col. 11, lines 45-62; col. 15, lines 36-43)

Maschke discloses a patient monitor capable of wireless transmission as explained, but does not expressly disclose that the data is transmitted to/from a wireless LAN. Jacobsen discloses a system including a patient monitor linked to a WLAN for the transmission of patient data. (col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6; col. 11, lines 36-42) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/method of Maschke with the teaching of Jacobsen to include WLAN's among the type of communication networks and wireless networks used to transmit patient data. As suggested by Jacobsen, one would have been motivated to include this feature to reduce healthcare costs and to facilitate the interconnectivity of a plurality of monitored individuals by using pre-existing communication systems (col. 2, lines 21-27)

[claim 2] Maschke teaches a portable patient monitor wherein the processor decodes the patient data to process and display the patient data and encodes the care parameters to transmit the care parameters to a wireless communication system. (col. 3, lines 21-44; col. 5, lines 10-28; col. 6, lines 34-45; col. 8, lines 20-43)

Art Unit: 3626

Maschke does not expressly disclose that the wireless communication system is a WLAN. Jacobsen discloses a system including a patient monitor linked to a WLAN for the transmission of patient data. (col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6; col. 11, lines 36-42) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/method of Maschke with the teaching of Jacobsen to include WLAN's among the type of communication networks and wireless networks used to transmit patient data. As suggested by Jacobsen, one would have been motivated to include this feature to reduce healthcare costs and to facilitate the interconnectivity of a plurality of monitored individuals by using pre-existing communication systems (col. 2, lines 21-27)

[claims 3-4] Maschke teaches a portable patient monitor wherein the portable patient monitor is a primary monitoring device and wherein the processor processes the patient data to display ECG and vital sign data for a selected patient. (col. 6, lines 21-38; 34-49)

[claims 5 and 12] Maschke teaches a portable patient monitor wherein the communication interface is compatible with an existing wireless communication system. (col. 3, lines 21-44; col. 5, lines 10-28) Maschke does not expressly disclose that the wireless communication system is a WLAN. Jacobsen discloses a system including a patient monitor linked to a WLAN for the transmission of patient data. (col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6; col. 11, lines 36-42) At the

Art Unit: 3626

time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/method of Maschke with the teaching of Jacobsen to include WLAN's among the type of communication networks and wireless networks used to transmit patient data. As suggested by Jacobsen, one would have been motivated to include this feature to reduce healthcare costs and to facilitate the interconnectivity of a plurality of monitored individuals by using pre-existing communication systems (col. 2, lines 21-27)

[claims 6-7] Maschke teaches a portable patient monitor (i.e. transportable housing) by healthcare providers (col. 5, lines 30-40), but does not expressly disclose the dimensions of the device. However, at the time of the Applicant's inventions, it would have been obvious to one of ordinary skill in the art to build relatively small device (approximately the claimed dimensions), so that users may easily transport the device.

[claim 9] Maschke teaches a portable patient monitor wherein the processor is programmed to allow adjustment of alarm parameter violation limits. (col. 12, lines 34-38)

[claim 13] Maschke teaches a portable patient monitor of claim 12 wherein the processor is programmed to interface with a plurality of devices, including ventilators. (col. 16, lines 52-55) Maschke does not expressly disclose that processor interfaces with infusion pumps. However, at the time of the Applicant's invention, it would have

Art Unit: 3626

been obvious to one of ordinary skill in the art to modify the method of Maschke to program the processor to interface with infusion pumps as well. One would have been motivated to include this feature to provide continuity of data collection for a plurality of parameters, which affect the patient's health under various conditions. (See Maschke: col. 1, lines 39-48)

[claim 14] Maschke teaches a portable patient monitor wherein the processor is programmed to receive patient reports and diagnostic analyses prepared at other locations in the medical care facility to provide the health care provider with the patient reports and diagnostic analyses in real time. (col. 12, lines 45-col. 13, line 43—processor receives sensor data)

[claim 18] Maschke teaches a mobile clinical information management system to decentralize patient monitoring comprising:

- a portable patient monitor having a processor connected to a communication interface to receive and process patient data and to process and transmit care parameters (col. 3, lines 21-44; col. 5, lines 10-28; col. 6, lines 34-45), a display to display the patient data (Figure 1A (display 120-124; col. 4, lines 4-22)); and an input device to change the patient care parameters (col. 6, lines 34-41; col. 11, lines 45-62; col. 15, lines 36-43) the portable patient monitor having a configuration to allow wireless transport on a health care provider for extended periods; (col. 3, lines 21-44 col. 5, lines 10-28; col. 6, lines 34-45)

Art Unit: 3626

- a plurality of bedside patient monitors to connect to a plurality of patients and transmit patient data; (col. 11, lines 33-col. 14 lines, lines 34)
- a wireless communication system coupled to the plurality of bedside patient monitors and the portable patient monitor. (col. 3, lines 21-44; col. 11, lines 33-col. 14 lines, lines 34)

Maschke teaches a mobile clinical management information system substantially as claimed, but does not expressly disclose that the wireless communication system is a WLAN. Jacobsen discloses a system including a patient monitor linked to a WLAN for the transmission of patient data. (col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6; col. 11, lines 36-42) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/method of Maschke with the teaching of Jacobsen to include WLAN's among the type of communication networks and wireless networks used to transmit patient data. As suggested by Jacobsen, one would have been motivated to include this feature to reduce healthcare costs and to facilitate the interconnectivity of a plurality of monitored individuals by using pre-existing communication systems (col. 2, lines 21-27)

[claim 19] Maschke teaches a system further comprising a plurality of portable patient monitors, each portable patient monitor assigned to a given number of patients. (col. 8, lines 27-40; col. 15, lines 20-52: multiple patients/multiple monitors)

[claim 20] Maschke teaches a system wherein the processor:

Art Unit: 3626

- decodes the patient data to process and display the patient data and encodes the care parameters to transmit the care parameters to the wireless communication system ; and (col. 3, lines 21-44; col. 5, lines 10-28; col. 6, lines 34-45)
- processes the patient data to display ECG and vital sign data for a selected patient on the portable patient monitor. (col. 6, lines 21-38; 34-49)

Maschke does not expressly disclose that the wireless communication system is a WLAN. Jacobsen discloses a system including a patient monitor linked to a WLAN for the transmission of patient data. (col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6; col. 11, lines 36-42) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/method of Maschke with the teaching of Jacobsen to include WLAN's among the type of communication networks and wireless networks used to transmit patient data. As suggested by Jacobsen, one would have been motivated to include this feature to reduce healthcare costs and to facilitate the interconnectivity of a plurality of monitored individuals by using pre-existing communication systems (col. 2, lines 21-27)

[claim 21] Maschke teaches system wherein the portable patient monitor is a primary monitoring device (col. 6, lines 21-38; 34-49) and wherein a communication interface of the portable patient monitor is compatible with an existing wireless communication system. (col. 3, lines 21-44; col. 5, lines 10-28) Maschke does not expressly disclose that the wireless communication system is a WLAN. Jacobsen discloses a system including a patient monitor linked to a WLAN for the transmission

Art Unit: 3626

of patient data. (col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6; col. 11, lines 36-42) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/method of Maschke with the teaching of Jacobsen to include WLAN's among the type of communication networks and wireless networks used to transmit patient data. As suggested by Jacobsen, one would have been motivated to include this feature to reduce healthcare costs and to facilitate the interconnectivity of a plurality of monitored individuals by using pre-existing communication systems (col. 2, lines 21-27)

[claim 22] Maschke teaches a portable patient monitor (i.e. transportable housing) by healthcare providers. (col. 5, lines 30-40) but does not expressly disclose the dimensions of the device. However, at the time of the Applicant's inventions, it would have been obvious to one of ordinary skill in the art to build relatively small device (approximately the claimed dimensions), so that users may easily transport the device.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke and Jacobsen, as applied to claim 1, and in further view of Fuchs et al (USPN 5,788,646)

[claim 8] Maschke discloses a patient monitor system that tracks information regarding patient admission and discharge (col. 8, lines 38-47). Maschke also discloses that the system includes patient alarms (col. 12, lines 34-38), but does not expressly disclose that the patient monitoring system includes a processor to silence a patient's

bedside alarm. Fuchs discloses that patient monitoring systems often enable remote silencing of bedside patient alarms. (col. 1, lines 19-34) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method/system of Maschke with the teaching of Fuchs to allow the processor to remotely silence patient bedside alarms. One would have been motivated to include this feature to minimize noise disruption for the patient.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke and Jacobsen, as applied to claim 1, in further view of and Ballantyne (USPN 5,867,821), and in further view of Gallant et al (USPN 6,705,990—to substantiate Examiner's use of Official Notice).

[claim 10] Maschke and Jacobsen teach a patient monitoring system as previously explained but does not expressly disclose that the monitor further comprises a microphone and audio recorder for capturing patient events. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers which allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Maschke and Jacobsen with the teaching of Ballantyne to include a PDA and audio recording/microphone to capture patient data. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the collection and distribution of patient information and enhance the quality of healthcare provided to the patient. (col. 2, lines 55-62)

Maschke, Jacobsen and Ballantyne do not expressly disclose the use of voice-over-internet protocol. However, it is respectfully submitted that the use of VOIP is well known in the art. For example, Gallant et al discloses a patient monitoring system, which transmits data via using a plurality of networks (e.g. LAN's, WAN's). The Gallant reference further discloses that at the time of the disclosed invention, voice-over Internet protocol (VoIP) was a well-known method used to transmit (voice) data (col. 21, lines 24-29). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to further modify the patient monitor of Maschke and Ballantyne in combination to permit VOIP transfer. One would have been motivated include this feature to further facilitate the collection of patient information and enhance the quality of patient healthcare services. One would have been motivated include this feature to further facilitate the collection of patient information and enhance the quality of patient healthcare services. (Ballantyne: col. 2, lines 55-62)

6. Claim 11 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke and Jacobsen, as applied to claim 1 and 18, and in further view of Gombrich (USPN 4,857,716).

[claim 11] Maschke teaches a portable patient monitor, which allows the user to check/verify that information from the monitor corresponds with the correct patient (col. 15, lines 20-35), but does not expressly disclose that the monitor further comprises a barcode scanner or that the system processor compares the barcode scanner information against a central computer to ensure that the accuracy of pharmaceutical

Art Unit: 3626

information and doctors orders for the patient. Gombrich teaches a system including a portable monitor, including a barcode scanner. Gombrich further discloses the use of the barcode scanner to verify that the appropriate medication/doctors orders (e.g. dosage accuracy) are provided to the correct patient. (Figure 21; col. 15, lines 49-65; col. 16, lines 28-50) At the time of the Applicant's invention, it would have been obvious to one ordinary skill in the art to modify the method of Maschke and Jacobsen in combination with the teaching Gombrich to include the use of barcodes and barcode scanners to ensure that the proper drug dosages and doctors orders are provided to the appropriate patient. One would have been motivated include these features to improve the quality of medical treatment provided to the patient, by minimizing the possible human error and increasing the effectiveness of drug administration. (Gombrich: col. 1, lines 45-62)

[claim 24] Maschke teaches a portable patient monitor, which allows the user to check/verify that information from the monitor corresponds with the correct patient (col. 15, lines 20-35), but does not expressly disclose that the monitor further comprises a barcode scanner or that the system processor compares the barcode scanner information against a central computer to ensure that the accuracy of pharmaceutical information and doctors orders for the patient. Gombrich teaches a system including a portable monitor, including a barcode scanner and also discloses the use of patient wristbands with barcodes. Gombrich further discloses the use of the barcode scanner to verify that the appropriate medication/doctors orders (e.g. dosage accuracy) are

Art Unit: 3626

provided to the correct patient. (Figure 21; col. 15, lines 49-65; col. 16, lines 28-50) At the time of the Applicant's invention, it would have been obvious to one ordinary skill in the art to modify the method of Maschke and Jacobsen in combination with the teaching Gombrich to include the use of patient barcodes and barcode scanners to ensure that the proper drug dosages and doctors orders are provided to the appropriate patient. One would have been motivated include these features to improve the quality of medical treatment provided to the patient by minimizing the possible human error and increasing the effectiveness of drug administration. (Gombrich: col. 1, lines 45-62)

Maschke also teaches a portable patient monitor wherein the processor is programmed to interface with a plurality of devices, including ventilators, (col. 16, lines 52-55) and to provide patient reports and diagnostic analyses to the health care provider(s) in real time. (col. 12, lines 45-col. 13, line 43—processor receives sensor data) Maschke does not expressly disclose that processor interfaces with infusion pumps. However, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Maschke and Jacobsen in combination to program the processor to also interface with infusion pumps. One would have been motivated to include this feature to provide continuity of data collection for a plurality of parameters, which affect the patient's health under various conditions. (See Maschke: col. 1, lines 39-48)

7. Claims 15-17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke and Jacobsen, as applied to claims 1 and 18, in view of Ballantyne (USPN 5,867,821), [claims 15 and 17] Maschke teaches a patient monitoring system as previously explained but does not expressly disclose that the patient monitor further comprises a PDA or that the monitor further comprises a microphone and audio recorder for capturing patient events. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers which allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Maschke and Jacobsen with the teaching of Ballantyne to include a PDA and audio recording/microphone to capture patient data. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the collection and distribution of patient information and enhance the quality of healthcare provided to the patient. (col. 2, lines 55-62)

[claim 16] Maschke teaches a patient monitoring system as previously explained in the rejection of claim 15, but does not expressly disclose that the patient monitor further comprises a PDA. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers, which provides reminders and scheduling information. (col. 13, lines 42-col. 14, lines 44—e.g. messaging and paging features, things to do) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in

Art Unit: 3626

the art to modify the system of Maschke and Jacobsen with the teaching of Ballantyne to include a PDA, with scheduling and reminder features. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the distribution of patient information, to enhance the quality of healthcare provided to the patient (col. 2, lines 55-62), and to ensure that patients receive appropriate medical services in a timely manner.

[claim 25] Maschke teaches a patient monitoring system as previously explained but does not expressly disclose that the patient monitor further comprises a PDA with scheduling or reminder functions or that the monitor further comprises a microphone and audio recorder for capturing patient events. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers, which provides reminders and scheduling information, (col. 13, lines 42-col. 14, lines 44—e.g. messaging and paging features) and which allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Maschke and Jacobsen in combination with the teaching of Ballantyne to include a PDA with scheduling and reminder features and which includes audio recording/microphone to capture patient data. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the collection and distribution of patient information, to enhance the quality of healthcare provided to the patient (col. 2, lines 55-62), and to ensure that patients receive appropriate medical services in a timely manner.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke, and Jacobsen, as applied to claim 18, and in further view Ballantyne, Gallant et al (USPN 6,705,990—to substantiate Examiner's use of Official Notice), and Fuchs. [claim 23] Maschke teaches a patient monitoring system which tracks the admission and discharge of a patient (col. 8, lines 38-47) and which adjusts alarm parameter violation limits (col. 8, lines 20-43; col. 12, lines 34-38). Maschke and Jacobsen do not expressly disclose that the system includes a speaker and microphone or that the system processes data to permit voice-over-internet protocol transfer. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers which allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Maschke and Jacobsen with the teaching of Ballantyne to include audio recording/microphone to capture patient data. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the collection and distribution of patient information and to enhance the quality of healthcare provided to the patient. (col. 2, lines 55-62)

Maschke, Jacobsen and Ballantyne in combination do not expressly disclose the use of voice-over-internet protocol. However, it is respectfully submitted that the use of VOIP was well known in the art at the time of the Applicant's invention. For example, Gallant et al discloses a patient monitoring system, which transmits data via using a plurality of networks (e.g. LAN's, WAN's). The Gallant reference further discloses that at the time of the disclosed invention, voice-over Internet protocol (VoIP) was a well

known method used to transmit (voice) data (col. 21, lines 24-29). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to further modify the patient monitor system of Maschke, Jacobsen and Ballantyne in combination to permit VOIP transfer. One would have been motivated include this feature to further facilitate the collection of patient information and enhance the quality of patient healthcare services. (Ballantyne: col. 2, lines 55-62)

Maschke, Jacobsen, Gallant and Ballantyne in combination also fail to disclose that the system allows the alarm of a bedside patient monitor to be silenced remotely, although Maschke does disclose that the system includes patient alarms (col. 12, lines 34-38). Fuchs discloses that patient monitoring systems often enable remote silencing of bedside patient alarms. (col. 1, lines 19-34) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method/system of Maschke and Ballantyne in combination with the teaching of Fuchs to allow the processor to remotely silence patient bedside alarms. As suggested by Fuchs, one would have been motivated to include these features to reliably inform the staff of medical emergencies associated with the patients (col. 1, lines 59-63), while minimizing noise disruption for the patient.

9. Claim 26, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke and Jacobsen, and in further view of Fuchs et al (USPN 5,788,646)
[claim 26] Maschke discloses a computer program residing in memory of a portable patient monitor to cause a processor to:

- remotely interface to a wireless communication system to acquire any patient alarms; (col. 3, lines 21-84; col. 6, lines 59-64; col. 12, lines 30-38)
- use alarms associated with patient monitor; (col. 6, lines 59-64; col. 12, lines 30-38)
- display patient data (col. 4, lines 4-22)

Maschke does not expressly disclose that the wireless communication system is a WLAN. Jacobsen discloses a system including a patient monitor linked to a WLAN for the transmission of patient data, including patient alarms (Abstract; col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6, lines 43-60; col. 11, lines 36-42). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/method of Maschke with the teaching of Jacobsen to include WLAN's among the type of communication networks and wireless networks used to transmit patient data. As suggested by Jacobsen, one would have been motivated to include this feature to reduce healthcare costs and to facilitate the interconnectivity of a plurality of monitored individuals by using pre-existing communication systems (col. 2, lines 21-27)

Maschke teaches a patient monitoring system (and computer program for operating the system) but does not expressly disclose that the patient monitoring system sounds an alarm if a patient alarm occurs or that system allows the user to silence a patient's bedside alarm. Fuchs discloses patient monitoring systems that sound alarms when a patient alarm (e.g. emergency) occurs and further discloses that patient monitoring systems often enable remote silencing of bedside patient alarms.

Art Unit: 3626

(col. 1, lines 19-34) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method/system of Maschke and Jacobsen in combination with the teaching of Fuchs to provide alarms when patients experience emergencies and to allow the user to remotely silence patient bedside alarms. As suggested by Fuchs, one would have been motivated to include these features to reliably inform the staff of medical emergencies associated with the patients (col. 1, lines 59-63), while minimizing noise disruption for the patient.

[claim 28] Maschke teaches a computer program wherein the computer program further causes the processor to allow user adjustment of alarm parameter violation limits. (col. 12, lines 34-38)

[claim 29] Maschke teaches a computer program wherein the computer program further causes the processor to relay patient admission and discharge information to the communications network. (col. 3, lines 21-44; col. 8, lines 27-47: patient data accessible after admission and before discharge) Maschke does not expressly disclose that the communication system is a WLAN. Jacobsen discloses a system including a patient data management system linked to a WLAN for the transmission of patient data. (col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6; col. 11, lines 36-42) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/method of Maschke with the teaching of Jacobsen to include WLAN's among the type of communication networks and wireless networks used to transmit patient data. As suggested by Jacobsen, one would have been motivated to include this feature to reduce healthcare costs and to

facilitate the interconnectivity of a plurality of monitored individuals by using pre-existing communication systems (col. 2, lines 21-27)

10. Claim 27 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke, Jacobsen, and Fuchs, as applied to claim 26, and in further view of Gombrich.

[claim 27] Maschke and Fuchs teach a computer program for a patient monitoring system/program as explained in the rejection of claim 26. Maschke and Fuchs do not expressly disclose that the processor is programmed to check the battery and to indicate whether the rechargeable batter of the monitor is low, although Maschke does disclose the use of a rechargeable battery pack used to power the patient monitoring system (col. 4, lines 4-10; col. 5, lines 4-9). Gombrich teaches a system wherein a patient monitor checks the recharged battery level and displays a warning if the charge is low (Figures 33-35; col. 24, lines 39-68). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/computer of Maschke, Jacobsen, and Fuchs to check the charge of the battery and to indicate if the charge is low. One would have been motivated to include this feature to minimize the possibility of inaccurate readings from the monitoring device (i.e. from lack of power)

[claim 31] Maschke and Fuchs teach the system/computer program of claim 26 as explained in the rejection of claim 26. Maschke teaches a portable patient monitor, which allows the user to check/verify that information from the monitor corresponds with the correct patient (col. 15, lines 20-35), but does not expressly disclose that the monitor further comprises a barcode scanner or that the system processor compares the barcode scanner information against a central computer to ensure that the accuracy of pharmaceutical information and doctors orders for the patient. Gombrich teaches a system including a portable monitor, including a barcode scanner and also discloses the use of patient wristbands with barcodes. Gombrich further discloses the use of the barcode scanner to verify that the appropriate medication/doctors orders (e.g. dosage accuracy) are provided to the correct patient. (Figure 21; col. 15, lines 49-65; col. 16, lines 28-50) At the time of the Applicant's invention, it would have been obvious to one ordinary skill in the art to further modify the system of Maschke, Jacobsen, and Fuchs in combination with the teaching Gombrich to include the use of patient barcodes and barcode scanners to ensure that the proper drug dosages and doctors orders are provided to the appropriate patient. One would have been motivated include these features to improve the quality of medical treatment provided to the patient by minimizing the possible human error and increasing the effectiveness of drug administration. (Gombrich: col. 1, lines 45-62)

11. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke, Jacobsen, Fuchs, as applied to claim 26, and in further view of Ballantyne.

[claim 30] Maschke and Fuchs teach the computer program of claim 26, as explained in the rejection of claim 26. Maschke teaches a patient monitoring system as previously explained but does not expressly disclose that the patient monitor system/program causes the processor to process audio recordings for capturing patient events. Ballantyne teaches a patient monitoring system that includes a processor for health care providers which allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to further modify the system of Maschke and Fuchs in combination with the teaching of Ballantyne to include a processor to process audio recordings to capture patient data. As suggested by Ballantyne, one would have been motivated to include this feature to facilitate the collection and distribution of patient information and enhance the quality of healthcare provided to the patient. (col. 2, lines 55-62)

Response to Arguments

12. Applicant's arguments filed 3/23/06 have been fully considered but they are not persuasive.

(A) Applicant argues that Jacobsen fails to disclose a "WLAN with a medical care facility" as required by claim 1.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

Art Unit: 3626

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Examiner has notes that Maschke reference has been relied upon to disclose a portable monitor that includes a communication interface input/output to receive and transmit information in a health care facility as explained in the rejection of claim 1. Moreover, the Maschke reference discloses that the communication within the system occurs over a plurality of network types, include WAN's and LAN's and that the system supports wireless communication as explained in the rejection of claim 1.

Maschke does not expressly disclose that the data is transmitted to/from a wireless LAN. Jacobsen discloses a system including a patient monitor linked to a WLAN for the transmission of patient data. (col. 3, lines 48-56; col. 4, lines 56-61; col. 10, lines 3-6; col. 11, lines 36-42) It is the combination of references which has been relied upon to address the limitations of claim 1.

Moreover, it should be noted that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel L. Porter whose telephone number is (571) 272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RP
RP


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER